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QUESTION OF EAST TIMOR

Letter dated 20 February 1991 from the Permanent Representative of Portugal to the United Nations addressed to the Secretary-General

Further to my letters of 28 November (A/45/57-S/21022) and 15 December 1989 (A/45/60-S/21028) and on instructions from my Government, I have the honour to convey to you the text of a note verbale handed to the Ministry for Foreign Affairs of Australia by the Ambassador of Portugal at Canberra on 11 February 1991 (see annex).

I would be grateful if you kindly arrange for the present letter and its annex to be circulated as an official document of the General Assembly, under item 105 of the preliminary list, and of the Security Council.

(Signed) Fernando REINO
Ambassador
Permanent Representative of Portugal
to the United Nations

* A/46/50.

ANNEX

Note verbale handed on 11 February 1991 to the Ministry for Foreign Affairs of Australia by the Ambassador of Portugal at Canberra

1. The Government of Portugal was informed that, on 9 February 1991, invoking the "Petroleum (Australia-Indonesia zone of co-operation) Act 1190", Article 2, a proclamation was issued aimed at commencing the aforesaid act thus showing that the "Treaty between Australia and the Republic of Indonesia on the zone of co-operation in an area between the Indonesian Province of East Timor and Northern Australia" signed on 11 December 1989, has been concluded.

2. On the same day, in Bali, the first meeting of the so-called "Ministerial Council", established in Part III of the "Treaty", took place, with the attendance of the Foreign Minister and of the Minister for Natural Resources of Australia. Apparently this marked, in ostensive and symbolic manner, the starting of the implementation of that "Treaty".

3. The Portuguese authorities have consistently lodged their diplomatic protests with the Government of Australia against the steps that Government has been taking with a view to negotiate, conclude and implement the above-mentioned "Treaty". The Embassy has the honour to call the Department's attention namely to the protests lodged on 19 September 1985, on 9 September and 28 October 1988, and still on 30 October and 13 December 1989.

4. In those protests the Portuguese Government pointed out namely that the negotiation, the conclusion and the implementation of such a "Treaty" with the Republic of Indonesia - a country that has militarily invaded the territory of East Timor and has persisted ever since with its illegal occupation, in defiance of the United Nations Security Council's and the General Assembly's relevant resolutions - constitutes a serious and blatant breach of international law.

5. Besides, independently of such a breach, in concluding and in starting the implementation of the "Treaty", Australia acts in contempt namely of its duties to respect the right of the East Timorese to self-determination, the territorial integrity of East Timor and the permanent sovereignty of that people over its natural resources which are, partially, the object of the agreement.

6. Moreover, Australia disregards Portugal's capacity as the administering Power of that non-self-governing territory and the exercise of the rights and obligations inherent to that capacity, as recognized by the United Nations, which continue to keep the item "Question of East Timor" inscribed on the agenda of their main bodies. Australia is thus further violating the obligations impeding upon it as a member of the international community and, in particular, those undertaken upon ratifying the Charter of the United Nations, of which Australia was one of the founding countries.

Also, Australia precluding any negotiation with Portugal concerning the exploration and exploitation of the natural resources located in the "Timor-Gap's" continental shelf, has infringed the duty incumbent upon it to negotiate with Portugal regarding matters of common interest and shared capacity.

7. Under the auspices of the United Nations Secretary-General, talks are proceeding concerning the question of East Timor. The concluding and the starting of the implementation of the "Treaty" interferes with and goes against the mediation efforts, tirelessly and patiently exercised by the Secretary-General, aiming at reaching a comprehensive settlement for that question, as provided for by the General Assembly in its resolution 37/30 of 23 November 1982.

8. Through the procedures referred to above, Australia has repeated, completed and aggravated the violation of international law and some of the fundamental principles that shall govern the relationship among States.

Portugal, therefore, lodges its strongest protest with the Government of the Commonwealth of Australia and restates that it reserves itself the right to resort to all legal means it will consider as convenient to uphold the legitimate rights of the East Timorese.